



City and County of San Francisco

Understanding Wage and Benefit Ordinance Requirements: City Agreements and City and County Ordinances

Beverly Popek, Compliance Officer
City and County of San Francisco
Office of Labor Standards Enforcement (OLSE)

Lots of Labor Laws...Which one to follow?

- Type of labor laws
- Review all City Agreements City
- Usually under “Other City Laws” Section
- Contact the contracting department
- Contact OLSE
- If MCO or/and HCAO is present in your Agreement, you are asked to only cover the employee working on the contract

Minimum Compensation Ordinance (MCO)

Not just about paying the minimum hourly rate

Doesn't matter where the company is located – Vendors need to comply if ordinance is in the Agreement

MCO: Covered Employer

- Nonprofit – 5+ workers (permanent, temporary, etc.) anywhere in the world
- with a City contract or grant
- includes subcontractors and subtenants

MCO: Covered Employee/Worker

- Anyone working for a covered employer on a City contract at least 4 hours a week – anywhere in the world
- Worker/Employee is anyone – doesn't matter if full-time, part-time, contract, casual, etc.

MCO: Requires Covered Employees to Receive (at least)

The minimum hourly compensation rate:

Nonprofit \$13.00. Matches the SF Minimum Wage

Paid Time Off (PTO) – accrual rate is 0.04615 hours of paid time off worked (~12 day for full-time 40 hour a week employees)

Unpaid Time Off – accrual rate is 0.0392 (~10 days for full-time 40 hour a week employees)

PTO is the property of the worker – Needs to be paid out upon termination

PTO violations are the most common violations for the MCO

In terms of wages, what do I need to do for employees *not working* on a City contract?



Josh Pastreich

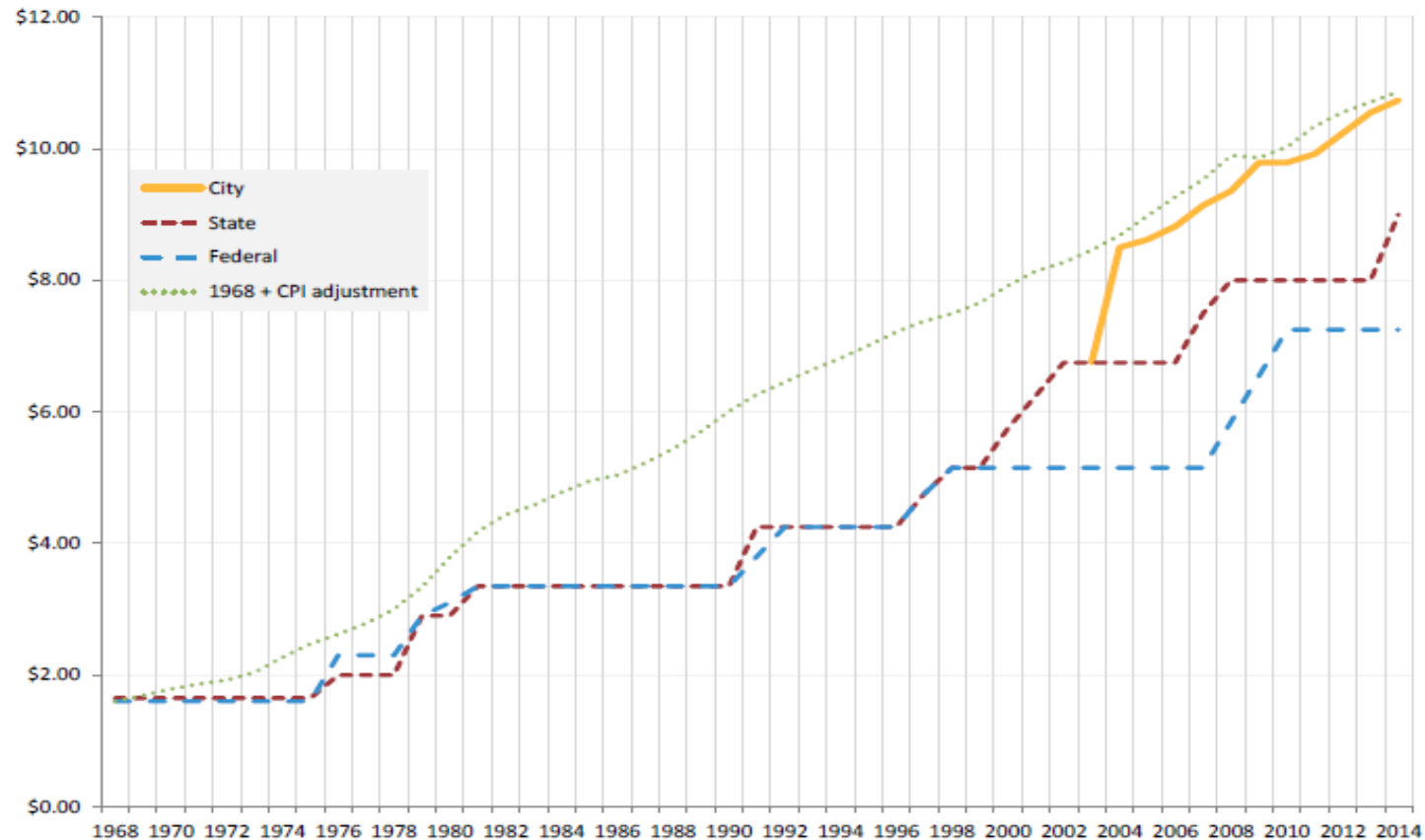
Supervising Compliance Officer

Office of Labor Standards Enforcement
City and County of San Francisco

History of Minimum Wage Ordinance

- Campaign led by labor, community and a member of the Board of Supervisors
- Adopted by San Francisco Voters in November 2003
- MW Currently at \$13.00 an hour
- On 7/1/18 will reach \$15.00 an hour and will then be Indexed to inflation (unlike CA or Federal Minimum Wage)

Historical Federal, California, & San Francisco Minimum Wages



Key OLSE Enforcement Strategies

- Investigate business-wide compliance
- Protect claimant confidentiality
- Community partnerships
- Focus on collections
- **Plan for & fund effective enforcement in any campaign to enact local labor standards**

2004 Minimum Wage Ordinance

Impact

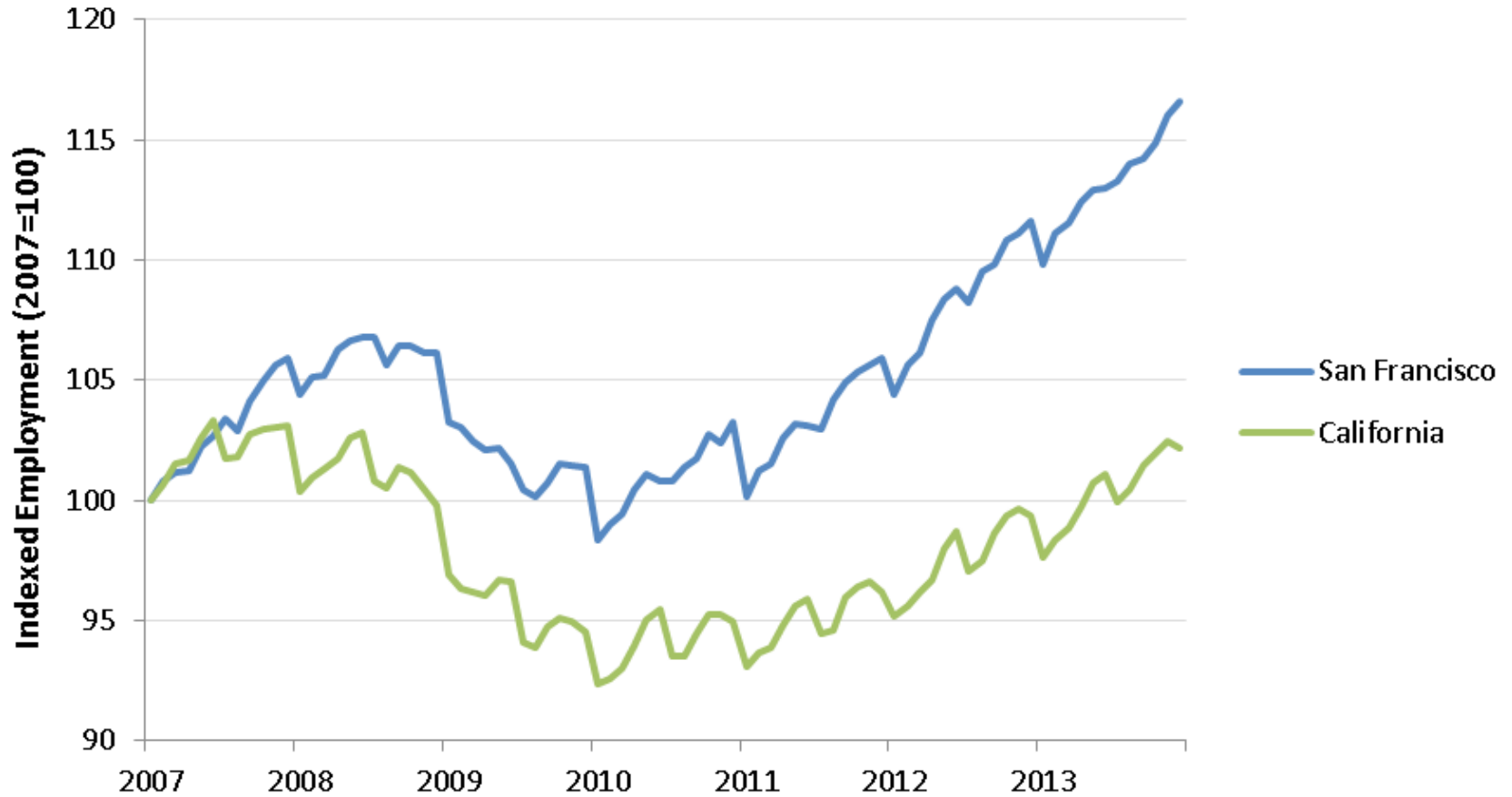
Dube, Naidu, & Reich (UC Berkeley, 2007) studied the impact of the MWO on San Francisco restaurants and concluded:

- “We find that the San Francisco wage floor policy increased pay significantly at affected restaurants....”
- “We do not detect any increased rate of business closure or employment loss....”

San Francisco’s Economist found:

- “San Francisco's low-wage industries grew no slower than the surrounding region after the city's minimum wage was enacted.”

San Francisco Employment



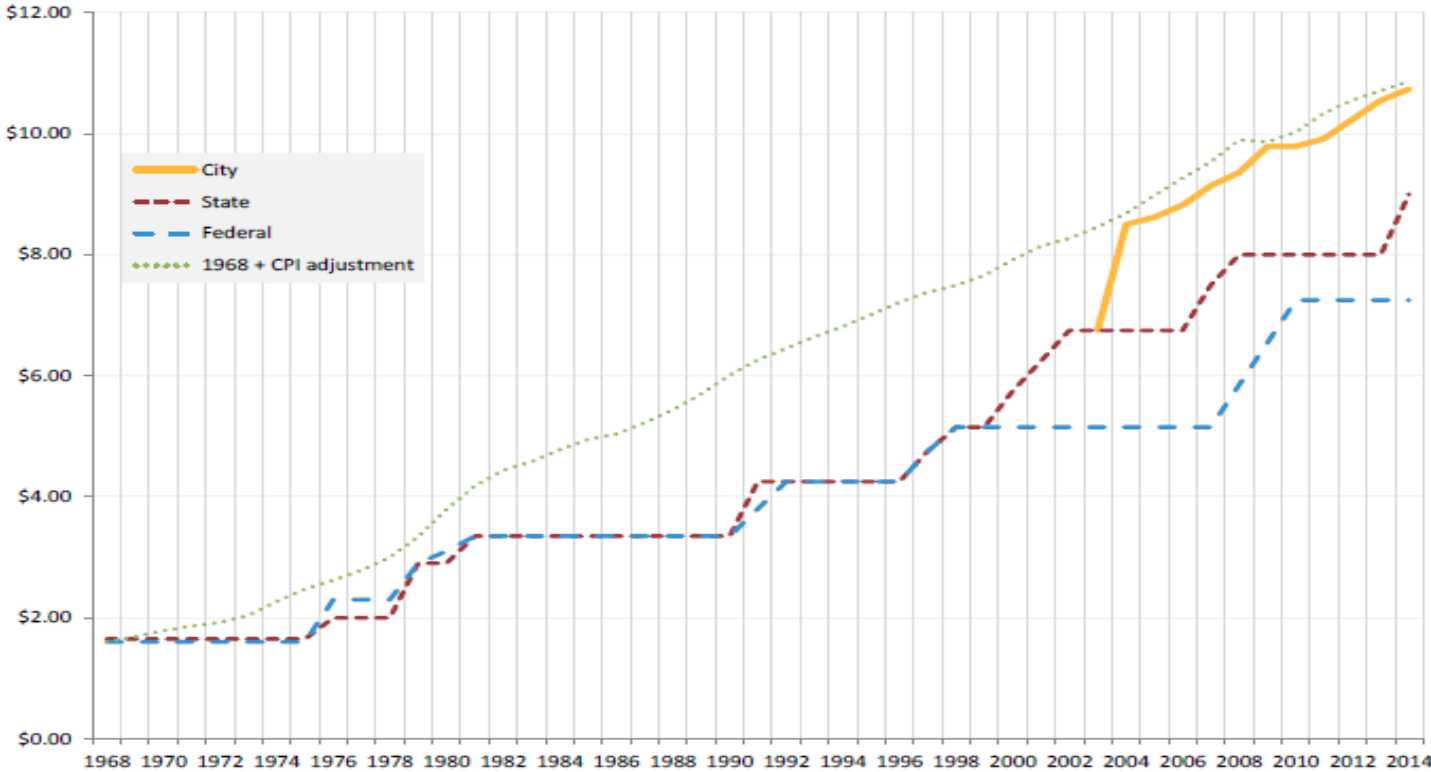
Leadership on the Affordability Crisis

“There's a growing consensus among liberals and conservatives alike that raising the minimum wage will help lift thousands of our fellow residents out of poverty and keep people off public assistance, saving taxpayers millions.

And so, this November... let's make it a little easier for some of our hardest-working residents to get by in this City, by placing a ballot measure before the voters to raise the minimum wage in San Francisco.”

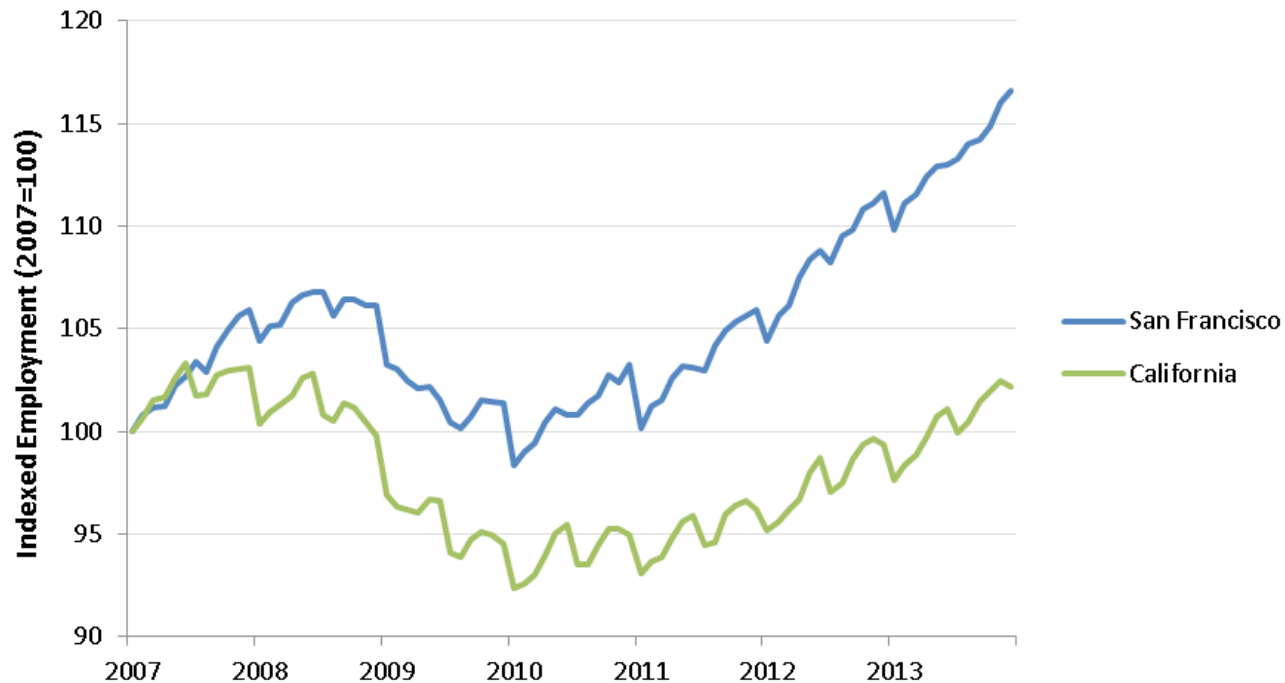
Mayor Edwin Lee, State of the City Address, January 2014

Historical Federal, California, & San Francisco Minimum Wages



Source: Office of Economic Analysis, City and County of San Francisco “Increasing the Minimum Wage Economic Impact Report.” July 17, 2014.

San Francisco Employment



Source: Reich, Michael, Ken Jacobs, Annette Bernhardt and Ian Perry. 2014. "San Francisco's Proposed City Minimum Wage Law: A Prospective Study" Policy Brief Aug. 2014. Institute for Research on Labor and Employment, University of California, Berkeley. Data from Quarterly Census of Employment Wages (not seasonally adjusted).

2014 Minimum Wage Ordinance Amendment

Effective Date	Minimum Wage Rate
5/1/2015	\$12.25
7/1/2016	\$13.00
7/1/2017	\$14.00
7/1/2018	\$15.00
July 1st Each Following Year	Consumer Price Index (CPI) Increase

Paid Sick Leave Ordinance

- Adopted by SF voters in November 2006
- 1st paid sick leave law in the U.S.
- SF's Ordinance has been a model policy:

Year Effective	Jurisdictions
2008	Washington, D.C.
2012	Seattle, WA; State of Connecticut
2014	New York, NY; Portland, OR ; Jersey City & Newark, NJ
2015	State of CA; State of MA; Eugene, OR; Oakland, CA; San Diego, CA; Montclair & Trenton, NJ

- President Obama called for PSL for 43 million employees

Use of Paid Sick Leave

- An employee may use paid sick leave not only when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis
- Sick leave can also be used to aid or care for the following persons - Child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person.

SF vs. California Paid Sick Leave

San Francisco Paid Sick Leave Ordinance	California Healthy Workplaces Healthy Families Act
Employee begins accruing PSL after 90 days of employment	Accrual begins when employment starts (on or after 7/1/15)
No requirement to inform employees of PSL balance	Employer must notify EEs of PSL accrued each pay period
1 hr accrued/30 worked - no limit on amount of PSL used	Use of PSL can be limited three days/yr

Paid Family Leave

(typical, uncomplicated pregnancy & childbirth)

Wage Replacement

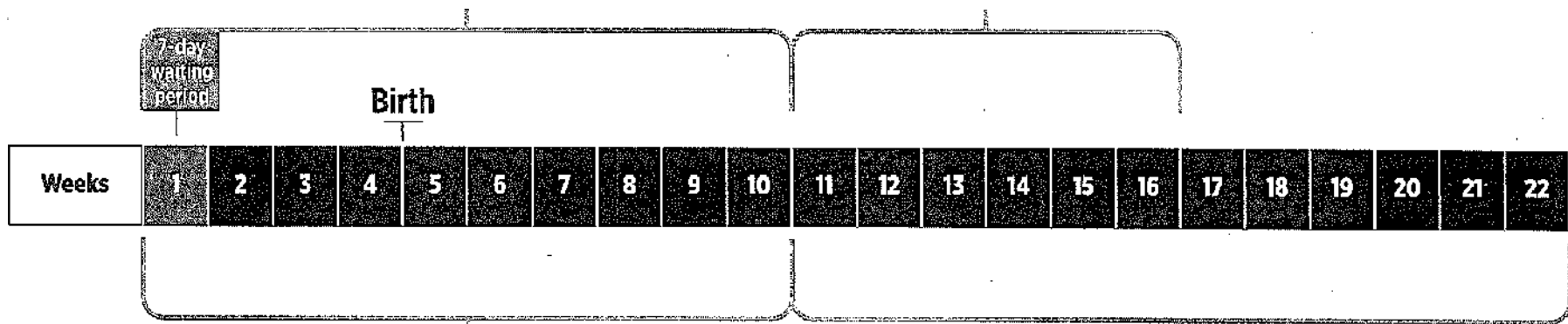
State Disability Insurance

(7-day waiting period, then 3 weeks pre-birth and 6 weeks recovery)

Wage Replacement

Paid Family Leave

(6 weeks to bond)

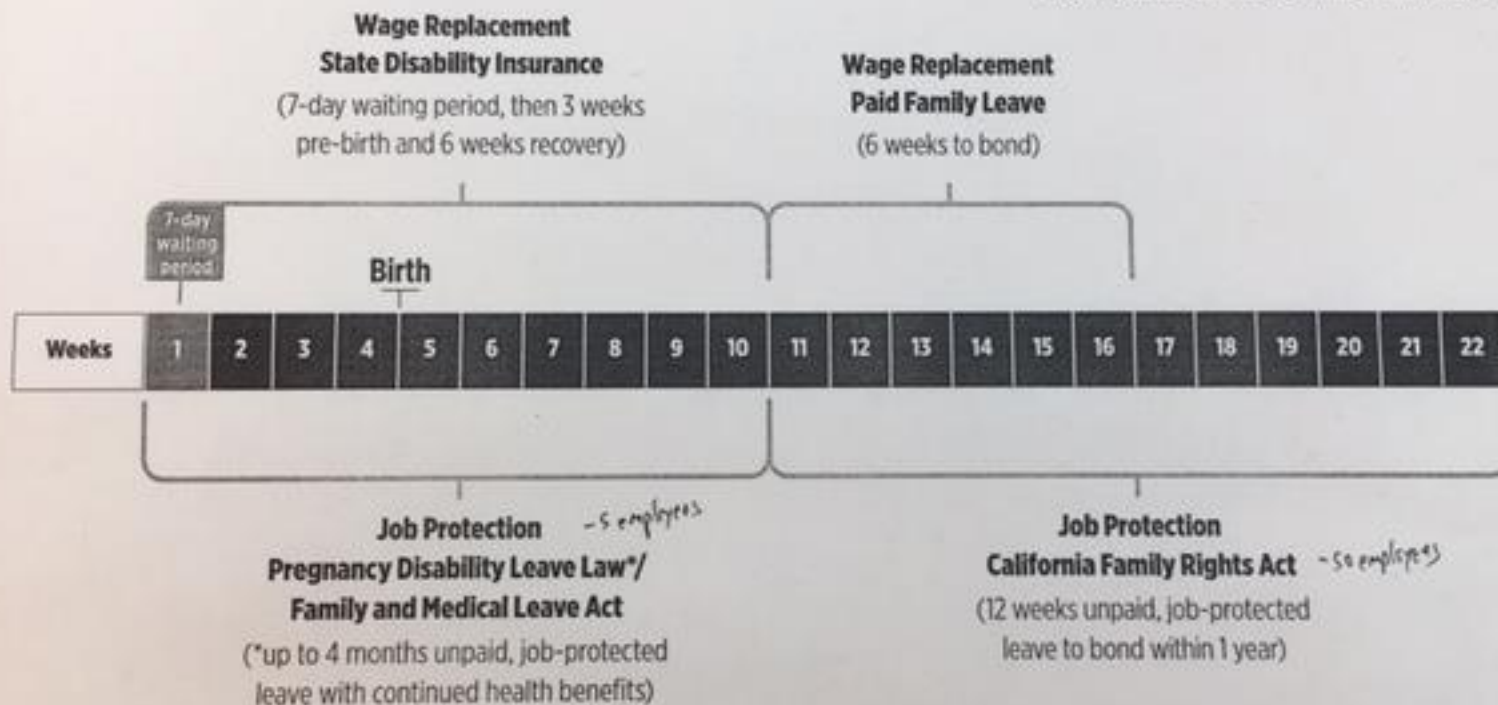


months unpaid, job-protected leave
with continued health benefits)

leave to bond within 1 year)

Pregnancy Disability and Bonding Leave for Birth Mother Eligible for FMLA/CFRA

(typical, uncomplicated pregnancy & childbirth)



Community Partners

- **Chinese Progressive Association**
(415) 391-6986
- **Filipino Community Center**
(415) 333-6267
- **La Raza Centro Legal**
(415) 575-3500
- **Asian Americans Advancing Justice – Asian Law Caucus**
(415) 896-1701
- **Dolores Street Community Services**
(415) 252-5375
- **Young Workers United**
(415) 621-4155



**Minimum Wage Ordinance Unit
(415) 554-6292**

**Paid Sick Leave Ordinance Unit
(415) 554-6271**

**Family Friendly Workplace Ordinance
(415) 554-6424**

www.sfgov.org/olse



City and County of San Francisco

Minimum Compensation Ordinance: Time Off Provisions

Beverly Popek, Compliance Officer
City and County of San Francisco
Office of Labor Standards Enforcement (OLSE)

Minimum Compensation Ordinance (MCO)

Not just about paying the minimum hourly rate

Doesn't matter where the company is located – Vendors need to comply if ordinance is in the Agreement

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PTO is the property of the worker – Needs to paid out upon termination

PTO violations are the most common violations for the MCO

Compliance Requirements

- Posting Requirement
- Employee must sign “Know Your Rights Form” – Must be done annually.
- All posters, forms, more information on our website:
www.sfgov.org/olse
- Keep forms, posters, etc. at least 5 years after your contract/lease ends
- Contact me! I will discuss how to develop and administer this process**



MCO Poster

Please Post Where Employees Can Read It Easily

CITY AND COUNTY OF SAN FRANCISCO



EDWIN M. LEE
MAYOR

NOTICE TO EMPLOYEES

Minimum Compensation Ordinance

This employer is a contractor with the City and County of San Francisco. This contract agreement is subject to the Minimum Compensation Ordinance (MCO). If under this contract agreement you work at least 4 hours per week during a pay period, you must be provided no less than the Minimum Compensation outlined below.

THESE ARE YOUR RIGHTS . . .

1. Minimum Hourly Compensation:

For contracts entered into or amended on or after October 14, 2007

- For-Profit Rate: **\$13.34/hour** effective 1/1/16
- Nonprofits must pay no less than the S.F. Minimum Wage (\$13.00 effective 7/1/16)
- Rates subject to change; your employer must pay the then-current rate posted on the OLSE web site: www.sfgov.org/olse/mco

For contracts entered into prior to October 14, 2007

- For work performed within the City Of S.F.: SF Minimum Wage (\$13.00/hour effective 7/1/16)
- For work performed outside of S.F.: \$10.77/hour

2. Paid Days Off:

- 12 paid days off per year for vacation, sick leave, or personal necessity
- The paid days off for part-time employees are prorated based on hours worked

3. Unpaid Days Off:

- 10 unpaid days off per year
- Unpaid days off for part-time employees are prorated based on hours worked

**IF YOU BELIEVE YOUR RIGHTS ARE BEING VIOLATED CONTACT THE
OFFICE OF LABOR STANDARDS ENFORCEMENT AT (415) 554-7903.**

Office of Labor Standards Enforcement (OLSE)
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
www.sfgov.org/olse/mco



MCO

Know Your Rights Form

Minimum Compensation Ordinance (MCO) KNOW YOUR RIGHTS

This notice is intended to inform you of your rights under the Minimum Compensation Ordinance (MCO), Chapter 12P of the San Francisco Administrative Code. The MCO requires your employer to provide a prescribed minimum level of compensation be paid to employees of (1) contractors and their subcontractors providing services to the City and County; (2) public entities whose boundaries are coterminous with the City and County who have city contracts; and, (3) tenants and subtenants on Airport property and their subcontractors. The Office of Labor Standards Enforcement (OLSE) is charged with enforcing the MCO. You will be asked to sign this document after you have reviewed the following information. Do not sign this document unless you fully understand your rights under this law.

THE MCO REQUIREMENTS

1. Minimum Hourly Wage

- For contracts entered into on or after October 14, 2007 and existing contracts amended on or after that date, the rate for for-profit contractors is **\$13.34/hour effective January 1, 2016**. Nonprofit contractors must pay the San Francisco minimum wage (\$13.00/hour effective July 1, 2016).
- For contracts entered into prior to October 14, 2007, the rate for work performed within the City of S.F. is the San Francisco minimum wage (\$13.00/hour effective July 1, 2016). The rate for work performed outside of S.F. is \$10.77/hour.
- Rates are subject to change. Your employer is obligated to keep informed of the requirements and to notify employees in writing of any adjustment to the MCO wage.

2. Paid Days Off

- 12 paid days off per year for vacation, sick leave or personal necessity
- The paid days off for part-time employees are prorated based on hours worked

3. Unpaid Days Off

- 10 unpaid days off per year
- Unpaid days off for part-time employees are prorated based on hours worked
- Temporary and casual employees are not eligible for unpaid time off

RETALIATION PROHIBITED

Your employer may not retaliate against you or any other employee for trying to learn more about the MCO or exercising your rights under the law. If you believe that you have been discriminated or retaliated against for inquiring about or exercising your rights under the MCO, contact the OLSE at (415) 554-7903 to file a MCO complaint.

Do not sign this document unless you fully understand your rights under this law. If you have any questions about your employer's responsibilities or your rights under this Ordinance, contact the OLSE at (415) 554-7903 or visit www.sfgov.org/olse/mco for more information about this law.

Print Name of Employee: _____

Signature of Employee: _____ Date: _____

Para asistencia en Español, llame al (415) 554-7903

需要中文幫助, 請電 (415) 554-7903

For a complete copy of the Minimum Compensation Ordinance, visit www.sfgov.org/olse/mco.

Enforcement

- The SF Office of Labor Standards Enforcement enforces the MCO, HCAO and about 10 other labor laws.
- My unit (MCO&HCAO) conducts random audits and investigate complaints
- Complaints from workers have priority
- No retaliation
- Audit covers all employees (current and terminated)
- Audit period usually goes back to the start of the contract.
- Keep documents at least 5 years after contract/lease
- Documentary evidence helps
 - Copy of Know Your Rights Forms
 - pay stubs
 - employee manual



Common Questions for MCO



- We have a Collective Bargaining Agreement (CBA), what are our obligations for MCO?
- If we comply with MCO, are we in compliance with the new Paid Sick Leave law?

MCO Questions?



City and County of San Francisco

Health Care Accountability Ordinance (HCAO)

Beverly Popek, Compliance Officer
City and County of San Francisco
Office of Labor Standards Enforcement (OLSE)

Health Care Accountability Ordinance (HCAO)

Took effect in 2001

Doesn't matter where the company is located – Vendors need to comply if ordinance is in the Agreement

HCAO: Covered Employer

- Nonprofit with more than 50+, anywhere in the world – includes subcontractors
- with a City contract
- or a lease on City property (including SFO and SF Port)

HCAO: Covered Employee/Worker

- Anyone working for a covered employer on a City contract at least 20 hours a week

HCAO Requirements

Employer must choose one of the following options that fit the situation/employee:

1. Offer each covered employee a compliant health plan at no charge to the employee - no later than the first of the month after 30 days. See Minimum Standards for health plan.

OR

2. Pay \$4.65 per employee per hour to SF General Hospital (not Healthy SF)

- Rate adjusted every July 1
- Fee goes to SF General Hospital – not a benefit or \$ for worker (this is NOT Healthy San Francisco)

OR

3. Pay an additional \$4.65 per hour worked to the employee

- This is only for employees who live outside of the City and County of SF AND work on a contract outside of the City, NOT at the San Francisco International Airport or the San Bruno Jail

HCAO Voluntary Wavier Form

- If vendor offers a compliant health plan at no charge to the employee, the worker must decide to accept or decline.
- This must be done on an annual basis. Time this with start of employment and eventually, this will be asked during open enrollment.
- If employee accepts, health plan must be active within 30 days from the start of employment on the cover contract.
- If employee declines, HCAO Voluntary Wavier Form must be completed and signed by employee.
 - Can't force employee to sign
 - Doesn't matter if employee has health insurance
 - No other benefit for employee if worker declines.
 - Employee can ask for complaint health plan if there is a change in life status (i.e. partner/spouse loses job and doesn't have health plan anymore).

HCAO Voluntary Waiver Form

CITY AND COUNTY OF SAN FRANCISCO
GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
PATRICK MULLIGAN, DIRECTOR

EDWIN M. LEE, MAYOR



SAN FRANCISCO HEALTH CARE ACCOUNTABILITY ORDINANCE ("HCAO") EMPLOYEE VOLUNTARY WAIVER FORM

THIS SECTION TO BE FILLED OUT BY THE EMPLOYER:

Employee Name: _____ Name of Employer: _____
Employee Address: _____ Employer Address: _____

Employer Contact Person: _____
Employee Phone: _____ Employer Telephone Number: _____

Compliant Health Plan(s) being offered to this employee without a premium charge:

Insurance Company: _____
Plan Name and Year: _____

THIS SECTION TO BE FILLED OUT BY THE EMPLOYEE:

Under the San Francisco Health Care Accountability Ordinance (HCAO), your employer is required to (1) offer you a health insurance plan that meets the HCAO Minimum Standards (available at sfgov.org/olse/hcao) and that **does not** require you to contribute any part of the premium (referred to here as a "Compliant Health Plan"); or (2) make payments to the City; or (3) under limited circumstances, make payments directly to you. You may reject the employer's offer of health plan benefits; however, a rejection is valid only if the employer retains this form, signed by you, and you verify that you are receiving health coverage.

Your employer is offering you the Compliant Health Plan(s) listed above. In order to be a Compliant Plan, it must have no premium charge to you for individual coverage. This Waiver Form allows you to waive your right to receive a Compliant Health Plan from this employer. By signing this form, you are relieving your employer of the legal requirement to provide you with a Compliant Health Plan. Even if you have other health insurance, your employer is required to offer you insurance or make payments unless you sign this form.

Do not sign this form if you want your employer to provide you with a health plan listed above. **It is illegal for your employer to entice, pressure or coerce you to sign this form.**

This voluntary waiver is valid for one year from the date signed.

You have the right to cancel or revoke this voluntary waiver at any time. Your revocation must be submitted in writing. If you revoke this waiver, your employer will be required to provide health insurance to you or make payments.

If you wish to provide a waiver to the employer listed above, please provide the information below:

I hereby certify that:

I am enrolling in another plan that is being offered to me by this employer (other than one listed above)

OR

I already have the following health insurance coverage from a different company or source:

I hereby waive the right to the Compliant Health Plan listed above offered to me by the employer listed above.

Employee's Signature Today's Date

If you have any questions about your employer's obligations under the Health Care Accountability Ordinance, please call 554-7903 or visit www.sfgov.org/olse/hcao.
Para asistencia en Español, llame al 554-7903. 需要中文帮助, 请电 554-7903.

COMPLETE THE FOLLOWING SECTION ONLY IF YOU WISH TO REVOKE A WAIVER PREVIOUSLY GRANTED TO YOUR EMPLOYER. *If you wish to waive your right to the compliant health plan(s) listed above, do NOT complete the portion below.*

REVOCATION OF HCAO VOLUNTARY WAIVER FORM

I no longer wish to waive the right to health insurance offered to me by the employer listed above, pursuant to the San Francisco Health Care Accountability Ordinance.

Employee's Signature Today's Date
SF OFFICE OF LABOR STANDARDS ENFORCEMENT, CITY HALL ROOM 430 TEL (415) 554-6235 • FAX (415) 554-6291
1 DR. CARLTON B. GOODLETT PLACE • SAN FRANCISCO, CA 94102 WWW.SFGOV.ORG/OLSE

Compliance Requirements

- Posting Requirement – Annual Requirement
- Employee must sign “Know Your Rights Form” on an annual basis
- HCAO Voluntary Wavier Form – Proof that employee did not want your offering of a compliant health plan at no charge.
- All posters, forms, more information on our website:
www.sfgov.org/olse
- Keep forms, posters, etc. at least 5 years after your contract/lease ends
- Contact me! I will discuss how to develop and administer this process**



HCAO Poster

CITY AND COUNTY OF SAN FRANCISCO



EDWIN M. LEE
MAYOR

NOTICE TO EMPLOYEES

Health Care Accountability Ordinance

This employer is a contractor with the City and County of San Francisco. This contract agreement is subject to the Health Care Accountability Ordinance (HCAO). The HCAO requires your employer to provide health plan benefits to covered employees, make payments to the City for use by the Department of Public Health (DPH), or, under limited circumstances, make payments directly to employees. **If you work at least 20 hours per week on a City contract, you are a covered employee and your employer must choose one of the following options:**

1. **PROVIDE YOU WITH A HEALTH PLAN THAT MEETS THE MINIMUM STANDARDS OUTLINED BY THE DIRECTOR OF PUBLIC HEALTH**
 - Your employer cannot require you to contribute any amount towards the premiums for health plan coverage for yourself.
 - Coverage must begin no later than the first of the month that begins after 30 days from the start of employment on a covered contract.

OR

2. **PAY \$4.65 PER HOUR WORKED TO THE CITY & COUNTY OF SAN FRANCISCO**
 - If you live within the City and County of San Francisco or work on a City contract within the City, the San Francisco Airport, or the San Bruno Jail, and your employer does not provide a health plan that meets the Minimum Standards, your employer must pay \$4.65 hour for every hour you work (up to 40 hours a week) to the City and County of San Francisco.

OR

3. **PAY AN ADDITIONAL \$4.65 PER HOUR WORKED TO THE EMPLOYEE**
 - If you live outside the City and County of San Francisco and work on a City contract located outside of the City, and not at the San Francisco Airport or at the San Bruno Jail and your employer does not provide a health plan that meets the Minimum Standards, your employer must pay you an additional \$4.65/hour for every hour you work (up to 40 hours a week) to enable you to obtain health insurance coverage.

**IF YOU BELIEVE YOUR RIGHTS ARE BEING VIOLATED CONTACT THE
OFFICE OF LABOR STANDARDS ENFORCEMENT AT (415) 554-7903.**

Office of Labor Standards Enforcement (OLSE)
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
www.sfgov.org/olse/hcao

HCAO Know Your Rights Form



Health Care Accountability Ordinance (HCAO) **KNOW YOUR RIGHTS**

This notice is intended to inform you of your rights under the Health Care Accountability Ordinance (HCAO), Chapter 12Q of the San Francisco Administrative Code. The HCAO requires your employer to provide health insurance to you. Your employer can do this by enrolling you in a health plan, by making payments to the City, or, under limited circumstances, by making payments directly to you. The Office of Labor Standards Enforcement (OLSE) is charged with enforcing this Ordinance. You will be asked to sign this document after you have reviewed the following information. Do not sign this document unless you fully understand your rights under this law.

THE HCAO COMPONENTS

- I. If you live in San Francisco (regardless of where you work) or if you work in San Francisco, at the San Francisco Airport, or at the San Bruno Jail, your employer must:
 - A. Offer you health coverage that meets the Minimum Standards starting on the first day of the month following 30 calendar days after your first day of work*; **OR**
 - B. For each month in which you averaged at least 20 hours of work per week, pay the City \$4.65 per hour for each hour you work, up to 40 hours or \$186 per week.
- II. If you do not live in San Francisco and do not work in San Francisco, at the San Francisco Airport, or at the San Bruno Jail, your employer must:
 - A. Offer you health coverage that meets the Minimum Standards starting on the first day of the month following 30 calendar days after your first day of work*; **OR**
 - B. For each month in which you averaged at least 20 hours of work per week, pay you \$4.65 per hour for each hour you work, up to 40 hours or \$186 per week, so that you can obtain health insurance coverage on your own.

**Note that your employer must offer at least one plan that does not require you to contribute any amount towards the cost of premiums for health plan coverage for yourself.*

EXEMPTIONS FROM COVERAGE

Certain categories of employees, including but not limited to students, trainees, and employees of employers subject to Prevailing Wage requirements, are exempt under the HCAO. For more information, go to www.sfgov.org/olse/hcao or call (415) 554-7903.

VOLUNTARY WAIVER OF COVERAGE

Employees may refuse health coverage offered by an employer if the employee signs the Voluntary Waiver Form. Employees may revoke this voluntary waiver at any time.

RETALIATION PROHIBITED

Your employer may not retaliate against you or any other employee for trying to learn more about the HCAO or exercising your rights under the law. If you believe that you have been discriminated or retaliated against for inquiring about or exercising your rights under the HCAO, contact the OLSE at (415) 554-7903 to file an HCAO complaint.

Do not sign this document unless you fully understand your rights under this law. If you have any questions about your employer's responsibilities or your rights under this Ordinance, contact the OLSE at (415) 554-7903 or visit <http://sfgov.org/olse/hcao> for more information about this law.

Name of Employee

Date

Signature of Employee

Para asistencia en Español, llame al 554-7903
需要中文幫助, 請電 554-7903

NOTE: For a complete copy of the Health Care Accountability Ordinance or the Minimum Standards, visit
<http://sfgov.org/olse/hcao>.

Enforcement

- The SF Office of Labor Standards Enforcement enforces the MCO, HCAO and about 10 other labor laws.
- My unit (MCO&HCAO) conducts random audits and investigate complaints
- No retaliation
- Complaints from workers have priority
- Audit covers all employees (current and terminated)
- Audit period usually goes back to the start of the contract.
- Keep documents at least 5 years after contract/lease
- Documentary evidence helps
 - Copy of Know Your Rights Forms
 - **HCAO Voluntary Waiver Forms**
 - pay stubs
 - employee manual
 - **benefit offerings**



Common Questions for HCAO



- If I have a grant, am I automatically exempt from the HCAO?
- We have a Collective Bargaining Agreement (CBA), what are our obligations for?

Are you compliant?



- OLSE is here to help vendors understand and interpret labor laws – Contact me for assistance!
- There is no cookie cutter model to implement these laws. You have **OPTIONS.**
- OLSE has a self-audit program



Health Care Security Ordinance (HCSO)

Donna Mandel

Supervising Compliance Officer
Office of Labor Standards Enforcement (OLSE)

Employers covered by the HCSCO



For-profit employers:

- 20+ persons perform work per week in the quarter
- Minimum size threshold based on total number of employees in ALL locations

Nonprofit employers:

- 50+ persons perform work per week in the quarter

Employees Covered by the HCSO

- Employed for at least 90 calendar days for your organization
- Work at least 8 hours per week in San Francisco
- **Not Covered by the Health Care Accountability Ordinance (HCAO)**

Employer Spending Requirement

- Minimum health care expenditure is calculated by multiplying total payable hours to the Covered Employee by the health care expenditure rate
- Health care expenditures must be made regularly, no later than 30 days after the end of the preceding calendar quarter.

	2016	2017
100+ Employees	\$2.53/hr	\$2.64/hr
20-99 Employees	\$1.68/hr	\$1.76/hr

For Quarter 3 2016, expenditures must be made by October 30, 2016

Ways to Satisfy the Employer Spending Requirement

- Health insurance
- San Francisco City Option
 - ✓ Provide one-time notice to employees
 - ✓ Upload accurate contact information
- Irrevocable Accounts
 - ✓ Health Savings Account
 - ✓ Medical Reimbursement Account,
 - ✓ Medical Savings Account, etc.

HCSO Amendment June 2014



- As of January 1, 2017 “revocable” expenditures may not be used to satisfy the employer spending requirement.
- In 2016, irrevocable expenditures must be use for at least 80% of the spending requirement for each employee

Other Employer Obligations Under the HCSO

- Post official OLSE Notice in all workplaces
- Report health care expenditures to OLSE every April
- Maintain employment records and records of compliance with the Employer Spending Requirement (ESR)



Learn more about the HCISO

- Sign up for e-mail updates on our website
- Attend a monthly webinar: sfcityoption.org
- Call the hot-line, 415-554-7892
- E-mail a compliance officer: hciso@sfgov.org

Questions?

HCAO

- only applies to City Contractors or Lessees
- only applies to employees working at least 20 hours a week on the contract or City property
- requires a minimum standard insurance plan (or an in-lieu fee)
- Employee has no waiting period for coverage

HCSO

- applies to employers in San Francisco
- applies to employees working at least 8 hours a week in SF, who are not covered under the HCAO
- has a spending requirement – the employer can choose how to spend the money
- employee has a 90 day waiting period for coverage

An employer can have different employees covered under each law

ACA, HCSO and City Option – SF Wage and Benefit Laws Workshop

September 20, 2016

Alice Kurniadi, MPH
Manager, Office of Managed Care
San Francisco Health Network
San Francisco Department of Public Health

Applicable Mandates for SF Employers

- **ACA Employer Mandate update 2016**
 - **Businesses (regardless of non vs for profit status) with \geq 50FTE subject to Employer Mandate**
- **HCSO Mandate update for 2017**
 - **Updated expenditure rate starting 1/1/2017 (diff between non vs for profit)**
 - **Amendment to HCSO passed 6/17/2014 to phase in over three years**

Comparison between ACA and HCSO

	ACA	HCSO
Applicable Employer Size	50 FTE	>= 20 for profit >= 50 non profit
Type of Requirement	Provide “affordable” coverage that meets “minimum value” to at least 95% for FTE employee or potentially pay Employer Shared Responsibility Payment to IRS	Make mandated expenditure for covered employees
Reporting Requirement	IRS Reporting Agency 1095-B, 1095-C, W-2	OLSE Reporting Agency

Employers are subjected to both ACA and HCSO in San Francisco.

Required ACA Coverage

- Employers who are determined to be Applicable Large Employers (ALE) must offer coverage to at least 95% full time employee that:
 - **Complies with ACA: covers essential health benefits, etc**
 - **Meets minimum value: plan's share of the total average cost of services $\geq 60\%$**
 - **Affordable: employee's premium is no more than 9.66% of annual household income**
- Otherwise may need to pay "Shared Responsibility Payment" to the IRS.


Employers can purchase coverage through Covered CA

- Employers with less than 100FTE can purchase coverage for employees through Covered CA SHOP
 - **Employers with <25 FTE may qualify for tax credit**



SF City Option

- Option for SF Employer to comply with HCSO, NOT ACA employer mandate
- SF City Option contains three programs

 **SF MRA** – Medical Reimbursement
YOUR ACCOUNT FOR HEALTH COSTS
Account for employees not eligible for other SF City Option Program

 **Healthy SF** – Health Access for eligible
OUR HEALTH ACCESS PROGRAM
SF residents

 **SF Covered MRA** – New program to provide
HELP WITH YOUR HEALTH INSURANCE
assistance to eligible employees with Covered CA coverage (Launch Nov 2016)

ACA Related Program

Resources:

- San Francisco's City resource: <http://sfmayor.org/get-covered-san-francisco>
- SF City Option website: <http://sfcityoption.org/>
- Healthy SF website: <http://healthysanfrancisco.org/>
- Covered CA website for small businesses: <http://www.coveredca.com/for-small-business/>
- IRS Q&A page for Employer Shared Responsibility under ACA: <https://www.irs.gov/affordable-care-act/employers/questions-and-answers-on-employer-shared-responsibility-provisions-under-the-affordable-care-act>

Fair Chance Ordinance

SF Office of Labor Standards Enforcement

“Ban the Box”

- 70 million adults in the U.S. have arrests or convictions on their record
- Employment is the single most important factor in reducing recidivism
- Men with criminal records account for about 34 percent of nonworking men between the ages of 25 and 54
- A study of job ads showed that over 90% discouraged or excluded ex-offenders
- Twenty-four states, and over 100 cities and counties now have Ban the Box laws



Solicitations

- Job ads or announcements:
 - cannot state or imply that persons with arrests or convictions may not apply or will not be considered for employment, or that a background check must be passed.
 - must include an affirmative statement of compliance with the FCO e.g.:
 - “Pursuant to the San Francisco Fair Chance Ordinance, we will consider for employment qualified applicants with arrest and conviction records.”

Applications

- Job applications cannot ask about the applicant's history of arrests or convictions
 - Whether the application is online or paper
- Employers cannot ask about, or inquire into, convictions or unresolved arrests until after a live interview or a conditional offer of employment.



Off Limits

- Six categories of information are OFF LIMITS at any time in the hiring process or during employment:
 1. an arrest not leading to a conviction, except for unresolved arrests
 2. participation in a diversion or deferral of judgment program
 3. a conviction that has been dismissed, expunged otherwise invalidated or otherwise inoperative
 4. a conviction in the juvenile justice system
 5. a conviction that is more than 7 years old
 6. an offense other than a felony or misdemeanor, such as an infraction

Required Procedures

- When considering an applicant's conviction history, the Employer must:
 - provide the applicant with a copy of OLSE's FCO Official Notice before inquiring about the applicant's conviction history or running a background check.
 - consider only Directly-Related Convictions
 - treat each applicant as an individual – no automatic rejections based on conviction histories
 - give the applicant seven days to explain or correct anything on the background report, and to provide any evidence of rehabilitation or mitigating factors.



Who is Covered?

- **Employee:** Includes positions that are full time, temporary, seasonal, part-time, contract, contingent, and commission-based work. Also includes work performed through the services of a temporary or other employment agency, and any form of vocational or educational training—with or without pay.
- Covers any position where the work takes place in San Francisco at least 8 hours a week.



Preemption

- If an employer is subject to any State or Federal law or regulation that conflicts with the FCO, that Federal or State law or regulation preempts the FCO.
- The employer must comply with the State or Federal law or regulation.
- The employer must also comply with any part of the FCO that is not in conflict with the Federal or State law.
- The FCO contains special exceptions for positions providing services to vulnerable populations or where driving is a significant part of the job

For More information

- Contact Donna Mandel, Compliance Officer
- Hotline: 415-554-5192
- Email: fce@sfgov.org
- Address: City Hall, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco, CA 94102
- Website: sfgov.org/olse/fco



EQUAL PAY ORDINANCE

City Controller & Human Rights Commission, City & County of San Francisco

September 20, 2016

EPO | OVERVIEW

WHAT IS THE EQUAL PAY ORDINANCE?

- The Equal Pay Ordinance creates a new mandate in City contracting which requires contractors doing business on large projects with the City to submit an Equal Pay Report regarding compensation to paid employees.
- The Equal Pay Report requires covered contractors to provide summary information on compensation paid to employees identified by **gender, race,** and **gender and race.**
- The Equal Pay Ordinance is the first law in the nation to require reports from contractors on pay equity by gender, race, and gender and race combined.

WHO IS A COVERED CONTRACTOR?

- Covered contractors include any contractor or subcontractor which has at least 20 employees worldwide. There are three additional categories:
 - For construction and public works, with an agreement value equal to or in excess of **\$600,000** (Threshold Amount in S.F. Admin. Code Chapter 6);
 - For goods and professional services, with an agreement value equal to or in excess of **\$100,000** (Minimum Competitive Amount in S.F. Admin. Code Chapter 21);
 - For nonprofit grant recipients, an agreement value equal to or in excess of **\$50,000**.

WHAT IS THE STATUS OF THE EPO?

- The EPO will be implemented in phases.
 - Phase One is a **pilot program** starting now.
 - Phase Two is **model analysis** based on the pilot program.
 - Phase Three is **notice and education to covered contractors**.
 - Finally, covered contractors will start filing Equal Pay Reports at some point in 2017 or 2018, and annually thereafter.
- Phase One involves a **survey** to potentially covered contractors and requests voluntary participation in the pilot program.

PHASE ONE

Survey Implementation

- 16 Question survey
- Used to find out:
 - What employee data is currently tracked
 - How employee data is kept and secured
 - What is the easiest method to send the City this data
 - Are they willing to be a part of the City's Pilot Program
- Sent to 477 City Contractors
 - 187 Nonprofits
 - 25 Construction trades
 - 265 Professional Services
- Methodology for survey selection
 - Utilized City contractor data which matched EPO requirements

PHASE ONE

Pilot Program

- City staff along with statisticians will work with contractor pilot groups to determine the most reliable, accurate, and easy-to-use methods for the Equal Pay Report
- Self-selected group of City contractors
- Voluntary submission of employee data
- City staff will utilize data to test newly developed methods for Equal Pay reporting and analysis

ADDITIONAL RESOURCES

FURTHER READING & RESOURCES

HRC Report: The San Francisco Equal Pay Ordinance: <http://sf-hrc.org/sites/default/files/Report%20on%20the%20Equal%20Pay%20Ordinance.pdf>

HRC Equal Pay Advisory Board: <http://sf-hrc.org/equal-pay-advisory-board>

Dept. on Status of Women Equal Pay Resources <http://sfgov.org/dosw/equalpay>

QUESTIONS?

